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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,427	08/29/2001	Kazuhiko Taira	213423US2S	7070
22850	7590	11/16/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				CHU, KIM KWOK
ART UNIT		PAPER NUMBER		
		2653		

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/940,427	TAIRA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kim-Kwok CHU	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3 and 5-10 is/are rejected.
- 7) Claim(s) 2 and 4 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Prior Art**

1. Applicant should submit PTO-1449 form so that the listed references can be made of record.

**Claim Objections**

2. Claims 1-4 are objected to because of the following informalities:

- (a) in claim 1, line 8, the term "if" should be changed to --wherein--; and
- (b) similarly, in claims, 2-4, lines 8, 8 and 8 respectively, the term "if" should be changed to --wherein--.

Appropriate correction is required.

**Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a  
printed publication in this or a foreign country or  
in public use or on sale in this country, more than  
one year prior to the date of application for  
patent in the United States.*

4. Claims 1 and 3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sawabe et al. (U.S. Patent 6,108,486).

Sawabe teaches a method of embedding supplemental data (header) in an encoded signal (PCM audio data) and recording the

encoded signal on a disc like record carrier having all of the steps as recited in claim 1. For example, Sawabe teaches the following:

(a) as in claim 1, audio information recording apparatus sectioning audio information 43 into predetermined data units 202 and for recording units 43 onto an information recording medium (Fig. 8);

(b) as in claim 1, recording part for recording soundless data 203-206 and audio data 207 such that the soundless data and the audio data are separated from each other boundary between the predetermined data units (packet 202 includes audio data and soundless data); and

(c) as in claim 1, the soundless data 203-206 and the audio data 207 are sequentially recorded as the audio information onto the information recording medium (Figs. 8 and 13; audio packs 43 are sequentially recorded).

5. Claim 3 has limitations similar to those treated in the above rejection, and is met by the reference as discussed above.

6. Claim 5 is rejected under 35 U.S.C. § 102(b) as being anticipated by Sawabe et al. (U.S. Patent 6,108,486).

Sawabe teaches an audio information reproducing apparatus for reproduction from an information recording medium having all of the elements and means as recited in claim 5. For example, Sawabe teaches the following:

(a) as in claim 5, audio information 43 sectioned into predetermined data units 202 and recorded such that soundless data 203-206 and audio data 207 are separated from each other boundary between the predetermined data units 202 (Fig. 8);

(b) as in claim 5, a reproduction part 93 performing reproduction from the information recording medium 1 in the predetermined units 202, thereby start reproduction from a top position of audio data (Fig. 18; audio are playback from beginning to end).

7. Claims 6 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sawabe et al. (U.S. Patent 6,108,486).

Sawabe teaches an audio information reproducing apparatus for reproduction from an information recording medium having all of the elements and means as recited in claim 6. For example, Sawabe teaches the following:

- (a) as in claim 6, audio information 43 sectioned into predetermined data units 202 and recorded such that soundless data 203-206 and audio data 207 are separated from each other a boundary between the predetermined data units 202 (Fig. 8);
- (b) as in claim 6, information recording medium 1 recording information 201, 203 indicating reproduction start position and a recording position of the soundless data (Fig. 8);
- (c) as in claim 6, information recording medium 1 recording information 201, 203 indicating a reproduction start position of the audio data (Fig. 8);
- (d) as in claim 6, first reproduction means 86 for reproducing information indicating the reproduction start position (203a in Fig. 10) of the audio data (Figs. 10, 18 and 19; column 22, lines 48-58; step S25; column 18, lines 7-19); and
- (e) as in claim 6, second reproduction means 93 for starting reproduction from a position of the audio data, based on information indicating reproduction start position the audio data reproduced by first reproduction means (Fig. 18).

8. Method claim 9 is drawn to the method of using the corresponding apparatus claimed in claim 6. Therefore method claim 9 corresponds to apparatus claim 6 and is rejected for the same reasons of anticipation as used above.

9. Claims 7, 8 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sawabe et al. (U.S. Patent 6,108,486).

Sawabe teaches an audio information reproducing apparatus for reproduction from an information recording medium having all of the elements and means as recited in claim 7. For example, Sawabe teaches the following:

(a) as in claim 7, audio information 43 sectioned into predetermined data units 202 and recorded such that soundless data 203-206 and audio data 207 are separated from each other a boundary between the predetermined data units 202 (Fig. 8);

(b) as in claim 7, information recording medium 1 recording information 201, 203 indicating reproduction start position and a recording position of the soundless data (Fig. 8);

(c) as in claim 7, information recording medium 1 recording information 201, 203 indicating a reproduction start position of the audio data (Fig. 8);

(d) as in claim 7, reproduction part section 86, 93, based on the information indicating the reproduction start position 203a the soundless data and information indicating the

reproduction start position of the audio data, and for reproducing the soundless data section (Figs. 10 and 18).

10. Method claim 8 is drawn to the method of using the corresponding apparatus claimed in claim 7. Therefore method claim 8 corresponds to apparatus claim 7 and is rejected for the same reasons of anticipation as used above.

11. Method claim 10 is drawn to the method of using the corresponding apparatus claimed in claim 7. Therefore method claim 10 corresponds to apparatus claim 7 and is rejected for the same reasons of anticipation as used above.

***Allowable Subject Matter***

12. Claims 2 and 4 are allowable over prior art.

13. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

As in claims 2 and 4, the prior art of record fails to teach or fairly suggest an information recording apparatus/method having the following features:

(a) first calculation means for calculating a number predetermined data units where soundless data is to be recorded, from a requested soundless data section, the soundless data and the audio data are sequentially recorded as the audio information onto the information recording medium;

(b) first recording means recording soundless data corresponding to the number of the predetermined data units, calculated by the first calculation means, and for subsequently recording the audio data for every predetermined data units;

(c) second calculation means for calculating backward a reproduction start position of the soundless data, from a reproduction position of the audio data at boundary between the soundless data and the audio data recorded by first recording means, based on the requested soundless data section; and

(d) second recording means for recording, onto the information recording medium, information indicating reproduction

start position of the soundless data calculated by the second calculation means and a recording start position information of the soundless data, and information indicating the reproduction start position of the audio data.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yagi et al. (6,393,206) is pertinent because Yagi teaches an optical disc having audio data recorded.

15. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.  
20231 Or faxed to:

(703) 872-9306 (for formal communications intended for entry. Or:

(703) 746-6909, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim CHU whose telephone number is (703) 305-3032.



TAN DINH  
PRIMARY EXAMINER

KC

11/12/04

Kim-kwok CHU  
Examiner AU2653  
November 12, 2004

(703) 305-3032